

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

ATTORNEY FOR APPELLANT:

**TIMOTHY J. BURNS**  
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

**STEVE CARTER**  
Attorney General of Indiana

**JUSTIN F. ROEBEL**  
Deputy Attorney General  
Indianapolis, Indiana

---

**IN THE  
COURT OF APPEALS OF INDIANA**

---

RONALD HAYNES,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A05-0601-CR-58
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

---

APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable William Nelson, Judge  
Cause No. 49G07-0506-CM-110542

---

**August 24, 2006**

**MEMORANDUM OPINION – NOT FOR PUBLICATION**

**BAKER, Judge**

Appellant-defendant Ronald Haynes appeals his conviction for Operating a Vehicle While Intoxicated,<sup>1</sup> a class A misdemeanor. Specifically, Haynes contends that his conviction must be reversed because the State failed to establish that his operation of the vehicle occurred when he was intoxicated. Concluding that the evidence was sufficient, we affirm the judgment of the trial court.

### FACTS

On June 27, 2005, at approximately 8:40 p.m., Indianapolis Police Officer Monica Hodge was dispatched to 200 South Audobon to investigate a report of an automobile accident involving property damage. According to the dispatch, the accident had “just occurred.” Tr. p. 7. Officer Hodge arrived at the scene three minutes later, and several bystanders pointed to Haynes. When Officer Hodge approached, Haynes told her that while he was searching for his son’s house, he had “backed into some cars.” Id. at 9.

Officer Hodge observed that Haynes “could barely stand up” and there was a strong odor of alcohol about him. Tr. p. 5-6. Haynes’s speech was slurred and his eyes were bloodshot. At some point, Officer Daniel Shragal, a member of the D.U.I. Enforcement Unit, arrived at the scene. Officer Shragal also noticed the strong odor of alcohol, Haynes’s slurred speech, red and glassy eyes, and his poor manual dexterity. Additionally, alcohol containers were found in Haynes’s vehicle, and Haynes failed a horizontal gaze nystagmus test.

As a result of this incident, Haynes was charged with Count I, operating a vehicle

---

<sup>1</sup> Ind. Code § 9-30-5-2.

while intoxicated, and Count II, operating a vehicle at or above a blood alcohol level of .15. Following a bench trial on January 3, 2006, Haynes was convicted on Count I and acquitted on Count II. He now appeals.

### DISCUSSION AND DECISION

In addressing Haynes's challenge to the sufficiency of the evidence, we consider only the probative evidence and reasonable inferences supporting the judgment without weighing evidence or assessing witness credibility in order to determine whether a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. Miller v. State, 770 N.E.2d 763, 774 (Ind. 2002). We will affirm the trial court's judgment if the probative evidence and reasonable inferences drawn from the evidence could have permitted the trier of fact to find the defendant guilty beyond a reasonable doubt. McHenry v. State, 820 N.E.2d 124, 126 (Ind. 2005). A conviction may be sustained on the basis of circumstantial evidence. Brunes v. State, 475 N.E.2d 356, 358 (Ind. Ct. App. 1985). To convict Haynes of the charged offense, the State was required to prove that Haynes operated a motor vehicle while intoxicated in a manner that endangered another person. Ind. Code § 9-30-5-2(b).

In this case, Haynes challenges neither that he was intoxicated at the time the officers arrived nor that he had been driving. Rather, he asserts only that "there are no facts in the record or inferences therefrom to establish that [his] operation of his vehicle took place while he was intoxicated." Appellant's Br. p. 3.

At the outset, we note that this court has previously addressed the issue that Haynes

has raised. In Brunes, several police officers arrived at an accident scene and found a vehicle that had “run off the road into a ditch.” Brunes, 475 N.E.2d at 357. No one was behind the steering wheel of the automobile, its lights were off, and the engine was not running. A number of bystanders had gathered and traffic was stopped in both directions, indicating a recent occurrence. An obviously intoxicated person, who was subsequently identified as Brunes, admitted that he had been driving the vehicle. Id. at 359. Brunes was convicted of driving while intoxicated, and he appealed arguing that the evidence was insufficient to show “that he drove the automobile and that he was intoxicated at the time he drove it.” Id. at 358. Rejecting Brunes’s contentions, we determined that the evidence was sufficient to support his conviction in light of the evidence set forth above. Id.; see also Groves v. State, 479 N.E.2d 626, 629 (Ind. Ct. App. 1985) (upholding a defendant’s conviction for driving while intoxicated when the evidence established that his vehicle had collided with a tree and a police officer found the defendant in an intoxicated condition standing in a crowd of people near the wrecked automobile).

In this case, the evidence at trial showed that a police dispatcher informed Officer Hodge that an accident had “just occurred.” Tr. p. 7. When Officer Hodge arrived shortly thereafter, several bystanders directed her to Haynes. Haynes—who smelled of alcohol, had bloodshot eyes and slurred speech—admitted that he was the driver of the vehicle and had “just backed into some cars.” Id. at 5, 9. Another officer who arrived at the scene noticed alcohol containers in the vehicle and observed Haynes’s poor manual dexterity and unsteady balance. Id. at 15. In our view, this evidence was sufficient to establish that Haynes’s act of

driving and the resulting accident had occurred just prior to the officers' observing him in an intoxicated state. Thus, the evidence was sufficient to support Haynes's conviction for operating a vehicle while intoxicated.

The judgment of the trial court is affirmed.

VAIDIK, J., and CRONE, J., concur.